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November 10, 2016

Andy Slavitt, Acting Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244

RE: Comments on Illinois' Behavioral Health Transformation 1115 Waiver Application

Dear Mr. Slavitt:

TASC appreciates the opportunity to comment on Illinois' proposed 1115 waiver application. TASC has 40 years of experience working with people who have behavioral health conditions and are involved in Illinois' courts, probation, and correctional system. TASC helps people get treatment so they can enter recovery and refrain from continued costly involvement with the criminal justice system.

We commend Illinois for its decision to focus on behavioral health in its Medicaid transformation and for its leadership in viewing the justice population through a public health lens. In doing so, we believe Illinois is helping to elevate issues of mental health, alcohol and drug addiction, and the associated disproportionate justice involvement nationwide that affect so many residents, their families, and our communities. We see the opportunities in the State's proposal for the population we serve. Concurrently, we see a number of areas that conflict with the way we know the justice system operates and want to be able to provide guidance to the state in the implementation of those areas. The state must address the intersections of their proposal with the current processes of the criminal justice system. These intersections are described below.

Section 1.2.4.3: Behavioral and physical health services are integrated

In the State's design of "Integrated Health Homes (IHHs)," the state plans to use the ANSA[1] to determine which enrollees have high needs and which have low needs. The State plans to route individuals with low needs to primary care sites and individuals with high needs to IHHs for their behavioral health needs.[2] Research shows that less than 25% of justice-involved individuals see a physician outside of ER in the first year post release.[3] They are also less likely to have had a routine physical check-up in the last five years.[4]

TASC urges that individuals involved in the justice system be connected to IHHs for their behavioral health needs. Research shows that most individuals involved in the justice system have never had insurance, thus have never had access to the mainstream health care system. As such, the chance of them engaging with primary care at the outset is unlikely to occur without intentional, in-person facilitation. To leverage their experience and maximize outcomes, the state should partner with behavioral health providers who already work with this population and can coordinate their care and connect them to primary care.

Section 3.1.3: Services to ensure successful transitions for justice-involved individuals at the Illinois Department of Corrections (IDOC), Cook County Jail (CCJ), and the Illinois Department of Juvenile Justice (DJJ)

Role of MCOs in the Justice System. Illinois' application indicates that linkages between jail and prison to providers in the community will be the responsibility of MCOs.[5] TASC urges the State to reconsider this provision in the waiver given the complexity of the criminal justice system and inexperience of MCOs in working with the justice-involved population.

First, placing care coordinators from approximately 11 different MCOs within the discharge processes of 35+ secure correctional facilities will create disruption to current criminal justice processes that take place. MCOs alone are not equipped with the experience or expertise to effectively navigate the justice system and ensure the successful transitioning of people leaving institutions. Treatment providers attempted to do something similar in the courts in the 1970s and 80s, when many of them reached inside the court systems to recruit and access clients, creating unsustainable chaos. To avoid repeating this scenario, MCOs should partner with qualified providers familiar with the correctional system to fulfill this requirement.

Further, the waiver states its intention to expand on the work already underway, yet the proposed provision for MCOs to identify providers in the community post-release runs counter to how that work occurs today. In Illinois' jails and prisons, there are currently pilot programs in place to link individuals who receive treatment while incarcerated to care in the community post release. (A lack of funding for this work has limited the availability of this service to only a portion of those with the highest needs.) These demonstrations are often carried out in partnership with county and state correctional agencies, local health departments, and various social service providers. Existing processes not only consider an individual's treatment needs, but also criminogenic risk factors, which are used together to create a discharge plan for the individual prior to release. For those on probation or parole, medically necessary treatment coupled with case management is often a component of an individual's criminal justice mandate, which includes reporting back to the criminal justice system on the individual's progress and compliance. Those who work to connect individuals to care upon release must be competent in both criminal justice and behavioral health treatment systems and processes in order to satisfy the requirements of both systems.

It is reasonable to require that individuals enrolled in an MCO are linked to in-network providers, however is it problematic to require that the MCOs themselves perform this function from within correctional facilities given the criminal justice related functions that go along with performing that role. In alignment with the concept of health homes, MCOs should be required to partner with community-based agencies that have a history and experience in working with this population. This expectation should be made explicit in any contractual language associated with the 1115 waiver.

Performance Incentives. A requirement without an incentive or performance measure will not result in continuity of care post release. The state should implement a performance metric—Follow-up After Release from Correctional Care—that ensures MCOs follow up with individuals leaving prison or jail at 48 hours and 14 days post release. Individuals who are auto-assigned to MCOs, as proposed by the state, should be auto-assigned to MCOs that perform high

on this measure. Without such a metric, MCOs will benefit from a member's returns to prison and a disenrollment from their plan.

Section 3.1.4: Redesign of substance use disorder service continuum

The state plans to cover substance use case management in Medicaid on a pilot basis through the waiver. This service should be offered at parity with mental health case management—that is, at the same reimbursement rate and under the same conditions articulated in administrative rule, which includes the option of providing case management for up to 30 days before requiring a diagnosis.

The state plans to offer substance use case management to individuals who are: 1) receiving any ASAM treatment level of care, and 2) not receiving case management from other sources. Case management happens both prior to treatment, and during and after treatment.[6] Currently, multiple providers may provide case management to individuals who have a substance use disorder. This is acknowledged by DMH and permitted by Illinois Administrative Rule 132.[7,8]

With the state's proposal, providers that offer substance use case management separate from treatment and who work to get patients into treatment at other facilities would have to cut ties with their patients after admission and cease any monitoring or follow-up that is typically done during a patient's course of treatment. If this is not the state's intention, we urge the state to accurately define the parameters of this service. We would be glad to offer input and assistance to the state toward this end.

Section 4.3: Workforce-strengthening initiatives

Illinois' application requests Medicaid funding to "enhance its existing behavioral health workforce while building the behavioral health workforce of the future."[9] However, the capacity of the community to treat individuals with substance use and mental health conditions cannot be enhanced without first addressing the damaging effects that the state's ongoing budget crisis has had on the state's ability to treat the needs of its enrollees. Many providers operating in Illinois today are community-based, mission-driven, not-for-profit organizations that, until the expansion of Medicaid, utilized state funding to provide services to low-income single adults. Illinois expanded Medicaid in 2014 and rolled out managed care statewide in 2015.[10] In 2016, the State failed to pass a budget. Months passed as providers kept delivering services to clients without receiving payment from the State. Many providers had no option but to close divisions and/or locations in order to keep their doors open.[11,12,13,14,15,16] Simultaneously, providers have been working to create new capacity to bill Medicaid and MCOs, a complex, difficult transition incurring sizeable upfront, non-reimbursable costs, a situation many providers have endured by taking out lines of credit. Providers have made a number of operational and administrative shifts to be able to get reimbursed for their services through Medicaid all while operating in a deficit.

The waiver proposal recognizes that capacity is a current issue, but the solutions it offers do not adequately address it. These solutions include student loan repayment programs, payment for graduate medical programs, telemedicine equipment, and training.[17] While these activities will support the growth and transition of providers in the future, they do not address the need today. Without the ability of providers, especially specialized niche providers, to survive the current

transition to managed care, the state should not expect small- to medium-sized providers to manage the next transition towards integration that is being proposed.

TASC urges that the State's waiver be modified to include investments that will support the stability of providers during the current transition from state funding to Medicaid and managed care, so they can succeed in making the next transition of integration. This includes funding to purchase billing systems and software, purchase electronic health record platforms, and make IT upgrades to their current records system to accommodate the changes underway in behavioral health care.

TASC also recommends that the State include waiver funding for providers to build their back office infrastructure, which includes the ability to bring on board full-time billing specialists and revenue cycle management staff. Prior to Medicaid expansion and managed care, substance use providers, in particular, relied on state funding to serve low-income Illinoisans. The administrative structure to manage that funding stream is completely different from the administrative structure needed to manage claims and contracts in Medicaid managed care. This is a critical need among providers today.

Without these additional provisions designed to address capacity in the immediate term, TASC does not anticipate Illinois' proposed reforms to come to fruition, but rather that patients will continue to access costlier care in hospitals and correctional facilities due to a lack of available services in the community. We strongly urge the state to include these provisions to help protect access to such community services and to build a foundation for expansion, integration, and innovation.

In closing, we urge CMS to make Illinois' application one that will work. It should build on existing interventions and processes that are producing positive results rather than implement new processes that hinder the state's and their partner providers' ability to serve clients. Further, with the understanding that the state is leaving a considerable amount of implementation detail to the MCOs, particularly with regard to the transitioning of individuals from correctional care to the community, we urge that safeguards ensuring MCO accountability for this transition be documented in the waiver.

Thank you for your attention, and please feel free to contact me at (312) 573-8372 or prodriguez@tasc.org if I can be of assistance.

Pamela F. Rodriguez
President and CEO

Endnotes

[1] Adult Needs and Strengths Assessment
[2] Illinois'1115 Behavioral Health Transformation Waiver Application, Page 17-18
[3] Regenstein, M., and Christie-Maples, J. (2012). Medicaid Coverage for individuals in jail pending disposition: Opportunities for improved health and health care at lower costs. Washington, DC: Department of Public Health Policy, School of Public Health and Health Service, George Washington University. Retrieved from http://sphhs.gwu.edu/departments/healthpolicy/publications/DHP percent20Reportpercent20Regenstein percent2010 percent20reasons percent20November percent206.pdf
[4] Kulkarni, S.P., Baldwin, S., Lightstone, A.S., Gelberg, L., Diamant, A.L. (2010). Is incarceration a contributor to health disparities? Access to care of formerly incarcerated adults. Journal of Community Health, 35(3), 268-274.
[5] Illinois'1115 Behavioral Health Transformation Waiver Application, Page 41
[6] Illinois'1115 Behavioral Health Transformation Waiver Application, Page 32
[7] http://www.dhs.state.il.us/page.aspx?item=53172
[8] 59 Ill Admin 132
[9] Illinois'1115 Behavioral Health Transformation Waiver Application, Page 70
[10] Illinois Department of Healthcare and Family Services. (2015). Medicaid care coordination roll-out fact sheet. Retrieved from: https://www.illinois.gov/hfs/SiteCollectionDocuments/CCRollOutFactSheet.pdf
[11] Fortino, E. (2016, May 19). Mental Health Advocates Illustrate 'Devastating' Impact Of Illinois Budget Impasse During Chicago Rally. *Progress Illinois*. Retrieved from: http://www.progressillinois.com/quick-hits/content/2016/05/19/mental-health-advocates-rally-chicago-state-budget
[12] Non-profit behavioral health provider owed $4.5 million in unpaid state contracts seeks to conserve resources and ensure long-term stability in the face of mounting losses. (2016, March 1). *RiverBender*. Retrieved from: https://www.riverbender.com/articles/details/illinois-budget-crisis-forces-centerstone-to-consolidate-locations-and-programs-11675.cfm
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[16] Heffernan, S. (April 4, 2015). Large provider of Chicago mental health services, C4, is closing. *WBEZ News*. Retrieved from: https://www.wbez.org/shows/wbez-news/large-provider-of-chicago-mental-health-services-c4-is-closing/7a6342aa-6f93-4f22-86b6-8b871338ffa7
[17] Illinois'1115 Behavioral Health Transformation Waiver Application, Page 71